

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KRAUS INDUSTRIES, INC. dba OLSON)	
INDUSTRIES, INC.,)	
)	2:04-cv-1788
Plaintiff,)	Judge Terrence F. McVerry
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
COLONY INSURANCE COMPANY,)	
)	
Defendant.)	

ORDER OF COURT

Plaintiff's Complaint was received by the Clerk of Court and was subsequently referred to United States Magistrate Judge Lisa Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation recommended that Defendant's Motion for Summary Judgment be denied and that this Court *sua sponte* grant summary judgment to Plaintiff as to that portion of its action seeking a declaratory judgment requiring Colony to defend Kraus in the underlying Cross litigation, as more fully set forth in the Magistrate's Report. Service was made on all parties. Objections to the Report and Recommendation were filed, as was Plaintiff's Response to the Objections. The objections are found to be without merit. After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 6th day of December, 2005;

It is hereby **ORDERED** that Defendant's Motion for Summary Judgment be denied and that summary judgment be entered for Plaintiff as to that portion of its action which seeks a declaratory judgment requiring Colony to defend Kraus in the Cross litigation.

The Report and Recommendation of Magistrate Judge Lenihan is adopted as the Opinion of the Court.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

Dated: December 6, 2005

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